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REMARKS

Claims 1-19 are pending. In reply, Applicant submits the present Response with Amendments and Remarks, which overcome the outstanding rejection and place the application in condition for allowance. Applicant respectfully thanks the Examiner for indicating the allowable subject matter of claims 7 and 17.

Drawing Objections

The Examiner objects to the drawings for not showing every feature of the invention specified in the claims. The Examiner specifically indicates that the drawings fail to show the serrated shear edge of claims 6 and 16, and the container having two bulbs of claim 7. Applicant respectfully directs the Examiner to the "New Sheets" including Figures 3a, which includes a serrated shear edge 36a, and Figure 4a, which includes two bulbs 28.

Claim Rejections Under 35 U.S.C. §112, second paragraph

Claims 1 and 11 have been rejected under 35 U.S.C. §112, second paragraph, for allegedly failing to particularly point out and distinctly claim the subject matter that Applicant's regard as the invention. The Examiner asserts that claims 1 and 11 "recite a hollow port, however that port is closed and no longer a port in the finished product. Claims 1 and 11 actually recite the product at an intermediate stage of production." In response to this rejection, Applicant respectfully asserts that the product is claimed at the stage of production intended by the Applicant. The claims do not indicate that the container must comply with what the Examiner refers to as a "finished product," and thus, there is nothing indefinite about what is being claimed. Therefore, Applicant respectfully asserts that this portion of the rejection is overcome.

The Examiner also asserts that the claim 11 recitation of proximal and distal ends being selected from elliptical, circular, or diamond shapes is indefinite because the end product of the tube is flat due to sealing. Applicant respectfully disagrees. Referring to Figures 2, 8A, 9A, and 10A, Applicant illustrates elliptical, circular, and diamond shapes of the distal and proximal ends, wherein an "external opening" at the distal end 18 may be sealed via a flat surface at a substantially flat plane (see figures 1, 5, and 6) of the external opening/distal end 18, regardless of the shape of the end. The flat surface would simply cover/seal the external opening provided by an elliptical end 18, diamond shaped end 88, or

any other shaped end (see paragraph 0022, lines 9-10, paragraph 0031, lines 8-9, and paragraph 0032, lines 8-9). Thus, Applicant respectfully asserts that this portion of the rejection is overcome.

Claim Rejections Under 35 U.S.C. §102(b)

Claims 1-5, 8-15, 18, and 19 have been rejected under 35 U.S.C. §102(b) as being anticipated by United States Patent Number 6,116,449 to Chiesi ("Chiesi" hereinafter).

Applicant respectfully points out that Applicant's claim 1 claims a "hollow filling port comprising a *circular end* proximal to the body," and Applicant's amended claim 11 claims a hollow fill port comprising a proximal end...selected from the group consisting of a *circular end* and a *diamond shaped end*." Chiesi does not teach a container including a port with a circular or diamond shaped proximal end. Instead, referring to Column 5, line 5, Chiesi teaches, "the transversal section of the container 2 is *elliptical*." There is no teaching of a proximal end shape, and in fact, there is no mention or illustration of a proximal end of a port at all. The shape in Chiesi Figure 3A which the Examiner labels as being "circular" (Applicant respectfully traverses this assessment) is most likely depicting the "neck" portion of the container. Applicant respectfully offers this assessment because the container 2 is taught to include an elliptical "transversal section," and thus, must be elliptical from its sealed end 3 to its neck. As such, Chiesi does not teach a hollow filling port with a circular or diamond shaped proximal end (or any proximal end at all). Therefore, since Chiesi does not teach every element of Applicant's claims 1 and 11, Chiesi does not anticipate Applicant's claims 1 and 11, or claims 4-5, 8-10, 13-15, 18, and 19 that depend respectively therefrom.

Furthermore, referring specifically to claim 3, it is respectfully asserted that Chiesi does not teach a "relatively flat area 32 surrounding the bulb." Instead, the piece that the Examiner refers to Applicant's bulb is taught to connect and be associated with the container 2 and plug 4 (see Figure 3A). In connecting the container 2 and plug 4, this piece is illustrated and taught to be surrounded primarily by air, not a flat area.

Claim Rejections Under 35 U.S.C. §103(a)

Claims 1-6 and 8-10 have been rejected under 35 U.S.C. §103(a) as being unpatentable over United States Patent Number D330,160 to Umekawa ("Umekawa")

hereinafter) in view of United states Patent Number 4,512,475 to Federighi ("Federighi" hereinafter).

Applicant's claim 1 claims a "hollow fill port comprising a circular end 20 proximal to the body, and an elliptical end 18 distal to the body." Applicant respectfully asserts that Umekawa does not teach a fill port of any kind. Instead, referring to all of the Figures 1-5 of the Umekawa design patent, and in particular Figure 3, Umekawa teaches a container that is sealed at both ends, and thus, includes no ports or openings. As Umekawa teaches no openings, it certainly does not teach an opening including a circular end proximal to the body and an elliptical end distal to the body.


Applicant respectfully asserts that Federighi fails to remedy the deficiencies of Umekawa discussed herein. Federighi does not teach a "hollow fill port comprising a circular end 20 proximal to the body, and an elliptical end 18 distal to the body." Instead, Federighi simply teaches "a lower end of the body portion [that] is initially open to initiate filling of a product," (Column 2, lines 31-32) teaching nothing of a port comprising a circular end 20 proximal to the body and an elliptical end 18 distal to the body. In addition, the *end portion 16* that the Examiner contends is "flaring out from the body 12, thereby providing an elliptical shaped end," (March 20, 2006 Office Action) is actually a *welded seam 16* that could have achieved this "flaring out" via the welding process, and never have included a flared opening. Even if, *pro arguendo*, there was a flaring of this region prior to sealing, and that flaring out actually indicated an elliptical shape (which it does not necessarily indicate), there is certainly no teaching of a circular end 20 proximal to the body. Thus, for all of the above reasons, the combination of Umekawa and Federighi does not teach all of the elements of claim 1. As such, it is respectfully asserted that claim 1 and claims 2-6 and 8-10 that depend therefrom, are not unpatentable over United States Patent Number D330,160 to Umekawa ("Umekawa" hereinafter) in view of United states Patent Number 4,512,475 to Federighi.

Accordingly, Applicant respectfully submits that the application is now in condition for allowance; withdrawal of all rejections and prompt issuance of a Notice of Allowance is respectfully requested.

The Examiner is invited to contact Applicant's attorney at the below-listed phone number regarding this Response or otherwise concerning the present application. Applicant hereby petitions for any extension of time necessary for entry and consideration of this Response. If there are any charges due with respect to this Amendment or otherwise, please charge them to Deposit Account No. 06-1130 maintained by Applicant's attorneys.

Respectfully submitted,

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Date: 06 September 2006